

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION

TIMOTHY JERMAINE PATE,

Plaintiff,

v.

JOHN A. KOSKINEN,

Defendant.

CV 117-126

O R D E R

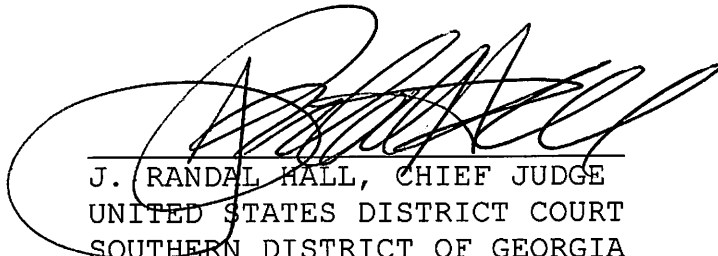
Before the Court is Defendant's motion to dismiss. (Doc. 14.) Defendant argues that this Court lacks subject matter jurisdiction because Plaintiff failed to file a claim for refund with the Internal Revenue Service ("IRS"). (Id. at 5.) The Court agrees.

Plaintiff has the burden to establish this Court's subject matter jurisdiction "in the face of a factual challenge." OSI, Inc. v. United States, 285 F.3d 947, 951 (11th Cir. 2001). This Court has no subject matter jurisdiction over claims for tax refunds unless the taxpayer has first filed an administrative claim for refund with the IRS. See Wachovia Bank, N.A. v. United States, 455 F.3d 1261, 1264 (11th Cir. 2006); see also Kim v. United States, 461 F. Supp. 2d 34, 38 (D.D.C. 2006). Neither Plaintiff's pleadings nor his response to Defendant's motion to dismiss make any allegation or provide any proof that

Plaintiff filed a claim for refund with the IRS. Thus, Plaintiff has failed to establish subject matter jurisdiction.

Accordingly, the Court **GRANTS** Defendant's motion to dismiss (doc. 14), and **DENIES AS MOOT** all other pending motions on the docket (docs. 22, 46, 50). The Clerk **SHALL CLOSE** this case and **TERMINATE** all deadlines.

ORDER ENTERED at Augusta, Georgia, this 25th day of June, 2018.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA